IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 760 OF 2007

M/s. Siemens Limited .... Petitioner

versus

Seimens Workers Union ..... Respondent.

Shri J.P. Cama Sr. adv. i/b. M.P.Vaidya for the petitioner
Shri C.U.Singh Sr. Adv. for the respondent.

CORAM; A.P. DESHPANDE, J.
DATED; 5TH FEBRUARY, 2007

JUDGMENT;

1. This petition is filed by the employer challenging the interlocatory order passed by the Industrial Court in favour of the worker's union in a complaint filed under Maharashtra Recognition of Trade Union & The Unfair Labour Practices Act. The respondent moved the petitioner to permit it to hold an election on 18-1-2007 in the company premises and the petitioner has refused to grant such permission which prompted the respondent to institute a complaint before the Industrial Court. The Industrial court is of the view, that the petitioner has permitted the respondent for the last 20 years for holding of such election in the company premises, hence there existed a right in the respondent not to have the said practice interupted. The Industrial court has held that the

settlement protects the privilege of holding of the meeting in the company premises. Thus the Industrial court has proceeded to grant the relief prayed for which is in the form of directing the petitioner to co-ordinate the respondent for holding of the election. The Industrial court has held that a primafacie case is made out which goes to establish the unfair labour practice and hence allowed the interim application.

2. The learned Senior advocate Shri Cama for the petitioner states that existence of legal right is condition precedent for granting relief under sub section (2) of section 30 of the MRTP Act. In the submission of the learned counsel for the petitioner, no such right exists in the respondent which can be enforced in the court of law. The learned counsel for the respondent Mr. Singh has pointed out that on earlier occasions when there is a dispute in two factions of the union in regard to the holding of election, the courts were moved and directions were issued against the petitioner commending it to make available all necessary facilities as may be required, for holding and conducting the elections in the factory premises. It thus appears primafacie that the respondent has vested right in conducting elections. Be as it may, no interference with the interlocatory order passed by the Industrial court is called for, as

the petitioner is not likely to suffer any loss or prejudice on account of the interlocatory order passed by the Industrial court. The Industrial court has further recorded a finding that the balance of convenience lies in favour of holding of elections at a place where it has been held for last 20 years. The said finding also does not suffer from any patent illegality, warranting any interference in exercise of writ jurisdiction. Perused the order. The Industrial court has taken a possible view of the matter. In my opinion, no interference in exercise of writ jurisdiction is called for. Hence writ petition is summarily dismissed.

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